

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on May 12, 2005, the Examiner objected to the drawings and to the specification. The Examiner also rejected claims 20, 21, 23 and 28 under 35 U.S.C. 112, first paragraph, rejected claims 4-8, 17, 22, 24 and 30-33 under 35 U.S.C. 112, second paragraph, rejected claims 1-3, 13, 14, 16-18, 28, 29 and 34 under 35 U.S.C. 102(b) as being anticipated by Bowers (United States Patent No. 6,243,954, hereinafter "Bowers"), rejected claims 1-3, 13-19, 28, 29 and 34 under 35 U.S.C. 102(e) as being anticipated by Alexander (United States Patent Application Publication No. 2003/0172533, hereinafter "Alexander"), rejected claims 1, 3, 16, 14, 30 and 34 under 35 U.S.C. 102(b) as being anticipated by Mosca (United States Design Patent No. 454,291, hereinafter "Mosca"), rejected claim 11 under 35 U.S.C. 103(a) as being unpatentable over Bowers in view of Pappas (United States Patent No. 6,321,453, hereinafter "Pappas"), rejected claims 12 and 27 under 35 U.S.C. 103(a) as being unpatentable over Bowers in view of McInnis (United States Patent Application Publication No. 2004/0166452, hereinafter "McInnis"), and rejected claims 5-10, 25, 26, 31-33 and 35 under 35 U.S.C. 103(a) as being unpatentable over Mosca. Accordingly, Applicant respectfully provides the following:

Objections to the Drawings

In the Office Action, the Examiner objected to the drawings. Applicant respectfully submits that the corrected drawing sheets provided herein are in compliance with 37 C.F.R. 1.121(d) and overcome the objections made by the Examiner.

Objections to the Specification

In the Office Action, the Examiner objected to the specification. Applicant respectfully submits that the amendments provided herein to the specification overcome the objections made by the Examiner.

Rejections under 35 U.S.C. 112

In the Office Action, the Examiner rejected claims 20, 21, 23 and 28 under 35 U.S.C. 112, first paragraph, and rejected claims 4-8, 17, 22, 24 and 30-33 under 35 U.S.C. 112, second paragraph. Applicant respectfully submits that the amendments provided herein overcome the rejections made by the Examiner under 35 U.S.C. 112.

Rejections under 35 U.S.C. 102

In the Office Action, the Examiner rejected claims 1-3, 13, 14, 16-18, 28, 29 and 34 under 35 U.S.C. 102(b) as being anticipated by Bowers, rejected claims 1-3, 13-19, 28, 29 and 34 under 35 U.S.C. 102(e) as being anticipated by Alexander, and rejected claims 1, 3, 16, 14, 30 and 34 under 35 U.S.C. 102(b) as being anticipated by Mosca. Applicant respectfully submits that the claim set as provided herein is not anticipated by the cited references.

The standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

“... for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.”

Applicants respectfully submit that the cited references do not teach every aspect of the amended claim set as provided herein and therefore do not anticipate the claims of the present invention. In particular, independent claim 1 recites a wick trimmer comprising: a first cutting arm having a base; a second cutting arm pivotally connected to said first cutting arm, wherein said second cutting arm includes a measuring foot having a thickness that is greater than a

thickness of said base, wherein said measuring foot thickness determines the length of a wick allowed to remain above the top surface of a candle upon trimming the wick, and wherein a top surface of said measuring foot includes a cutting edge; and a debris tray configured to receive any portion trimmed off of the wick, wherein the debris tray comprises said measuring foot, a top rim of said measuring foot, and said base. Such limitations are supported by the application as originally filed. (See pages 3-9 and corresponding drawings.) Similar limitations are included in independent claims 16, 30 and 34.

In contrast the references cited by the Examiner do not teach, either explicitly or impliedly, every aspect as claimed herein. Accordingly, Applicant respectfully submits that the cited references do not anticipate the independent claims as provided herein. In addition, the dependent claims place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited references do not teach, either explicitly or impliedly, every aspect as claimed herein and therefore do not anticipate the claim set provided herein.

Rejections under 35 U.S.C. 103

In the Office Action, the Examiner rejected claim 11 under 35 U.S.C. 103(a) as being unpatentable over Bowers in view of Pappas, rejected claims 12 and 27 under 35 U.S.C. 103(a) as being unpatentable over Bowers in view of McInnis, and rejected claims 5-10, 25, 26, 31-33 and 35 under 35 U.S.C. 103(a) as being unpatentable over Mosca. Applicant respectfully submits that the claim set as provided herein is not made obvious by the cited references.

The standard for a Section 103 rejection is set for in M.P.E.P 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must

be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant respectfully submits that the references cited by the Examiner do not teach or suggest the limitations claimed in the present invention. In particular, independent claim 1 recites a wick trimmer comprising: a first cutting arm having a base; a second cutting arm pivotally connected to said first cutting arm, wherein said second cutting arm includes a measuring foot having a thickness that is greater than a thickness of said base, wherein said measuring foot thickness determines the length of a wick allowed to remain above the top surface of a candle upon trimming the wick, and wherein a top surface of said measuring foot includes a cutting edge; and a debris tray configured to receive any portion trimmed off of the wick, wherein the debris tray comprises said measuring foot, a top rim of said measuring foot, and said base. Such limitations are supported by the application as originally filed. For example, reference is made to pages 3-9 and the corresponding drawings of the original disclosure. Similar limitations are included in independent claims 16, 30 and 34. And, none of the references cited by the Examiner, alone or in combination, teaches or suggests such limitations.

Accordingly, Applicant respectfully submits that for at least the reasons provided herein, the references cited by the Examiner, alone or in combination, do not teach or suggest all of the claim limitations. And, since the references cited by the Examiner do not teach or suggest each and every limitation of the independent claims, Applicant respectfully submits that the prior art references do not make obvious the independent claims as provided herein. Further, since the prior art references do not make obvious the independent claims, Applicant respectfully submits

that the prior art references cited by the Examiner do not make obvious the corresponding dependent claims, which depend from independent claims.

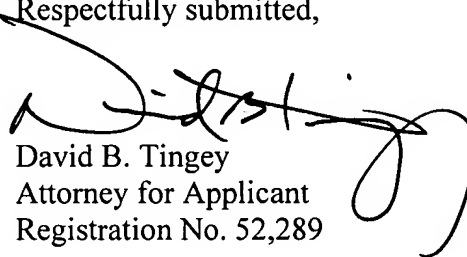
Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein is not made obvious by the cited reference and overcomes all rejections made by the Examiner in the Office Action.

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 12th day of August, 2005.

Respectfully submitted,



David B. Tingey
Attorney for Applicant
Registration No. 52,289

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 323-5986
Facsimile: (801) 321-4893

DBT:lc
829589